

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9253 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgment?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MUNNABHAI SAFIBHAI SHAIKH

Versus

COMMISSIONER OF POLICE

Appearance:

MS KRISHNA U MISHRA for the Petitioner.
Mr.M.K.Patel, Assistant GOVERNMENT PLEADER,
for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 20/02/2003

ORAL JUDGEMENT

By filing this petition, the petitioner has challenged the detention order dated 26.6.2002, by which he is detained as a "Bootlegger". Along with the detention order, he is served with the grounds of

detention, in which there is a reference of a criminal case registered on 18.6.2002 in connection with the sale of country liquor worth Rs.17,000/-. It is found that the detaining authority, after considering the papers on record, was satisfied that the petitioner is a 'bootlegger' and, accordingly, he is detained under the provisions of the Prevention of Anti-Social Activities Act, 1985 ("PASA", for short). The said detention order is challenged by the petitioner on the ground that there is a delay in deciding the representation as well as on the ground the document given to the petitioner at serial No.1 is not legible. So far as the delay in taking the decision is concerned, learned AGP submitted that the representation dated 26.8.2002 was received by the Department on 27.8.2002 and it was decided on 30th August, 2002 after obtaining appropriate comments from the Under Secretary as well as the Section Officer and, accordingly, decision was taken on 30th August, 2002, and 31st August, 2002 and 1st September, 2002 being holidays, the same was despatched on 2nd September, 2002. In my view, the authority has properly explained the delay in deciding the representation. Therefore, I do not find any substance in the first contention advanced by the learned Advocate for the petitioner.

However, so far as the document given to the petitioner at serial No.1 is concerned, which is a copy of the FIR, it is clear that the document is very much illegible and very faint. It is not possible to read the said document since it is very faint and the statements recorded in the said document are also not very legible. The authority should have given either typed copy or at least, copy which can easily be read by the detenu, as, ultimately, it is meant for reading. In view of the fact that the document in question is not legible, the authority has failed to comply with the constitutional requirement by not giving legible documents to the petitioner. In that view of the matter, the order of detention is required to be set aside on the aforesaid ground.

This petition is accordingly allowed. The order of detention is quashed and set aside. It is ordered that the detenu be released forthwith unless he is required in connection with any other case. Rule is made absolute.

20th February, 2003 (P.B. Majmudar, J.)

(apj)